

trailing edges of an article. Applicant traverses this rejection because there would not have been any motivation for the combination suggested by the examiner.

To make a proper § 103 rejection, the examiner must first establish prima facie obviousness. To do this, the PTO must identify a teaching or suggestion of the desirability of doing what the inventors here have done, e.g., scan leading and trailing surfaces of a constantly moving object using a position detector to calculate the distance between the surfaces being scanned and the symbol reading devices for focusing the scanning beams. To establish that the claimed invention is directed to an obvious subject matter, either the applied reference(s) must expressly or implicitly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why an ordinary artisan would have found the claimed invention to have been obvious in light of the teachings of the applied reference(s). The suggestion or the examiner's reasoning, however, must be objective and supported by evidence.

Here, the applied references do not provide any motivation for one skilled in the art to do what the examiner has suggested, i.e., modify Bridgelall so that it is able to detect the leading and trailing edges of a conveyed object to determine the scan distance and further modify Bridgelall so that it can scan both leading and trailing surfaces of the conveyed object using the distance information. Indeed, carrying out the modification as suggested by the examiner will eviscerate Bridgelall's invention. Bridgelall discloses a scanning system with a focusable scanner 40, which is focusable using internal feedback signals, fuzzy logic, or via external signals, such as a CCD/CMD article processor 618. Bridgelall discloses locating a bar code symbol on the article with an image camera and then focusing at the symbol caught by the camera from a fixed distance. Bridgelall does not go into the details as to how the scanning beams are focused. Nonetheless, one thing is clear, Bridgelall does not teach or disclose focusing the scanning beams by calculating the distance between the scanner and the surface being scanned via detecting the leading and trailing edges of the conveyed object. Neither do Nishimura and Inagaki provide any motivation for Bridgelall to do that. At best, Inagaki teaches scanning both the front and rear surfaces of an object by placing two discreet scanning systems at different locations, one facing the front surface and another facing the rear surface. That system requires a curved transport paths so that the scanner can be positioned directly in front of and in the

rear of the article. Such a system requires a longer conveying path, which is not desirable.

Nishimura does not teach or disclose detecting the leading and trailing edges of a moving object to calculate the distances between the scanners and the surfaces to be scanned. Accordingly, the examiner's sole purpose of adding Nishimura to the rejection is based on improper hindsight gleaned from the present invention.

Conclusion

The combination would have been improper, and even if it were proper, it would not have taught detecting the leading and trailing edges of a moving object to calculate the distances between the scanners and the surfaces to be scanned. Accordingly, applicant urges the examiner to issue an early Notice of Allowance.

Respectfully submitted,

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